

TMM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 APR 29 AM 9:50

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jesus DELGADO-Gaspar,

Defendant

Magistrate Docket No.

'08 MJ 1340

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

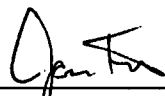
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2/1/08
DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **April 27, 2008** within the Southern District of California, defendant, **Jesus DELGADO-Gaspar**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **29th** DAY OF **APRIL, 2008**



Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

TKM

CONTINUATION OF COMPLAINT:**Jesus DELGADO-Gaspar****PROBABLE CAUSE STATEMENT**

On April 27, 2008, Acting Supervisory Border Patrol Agent H. E. Buenrostro, was performing uniformed United States Border Patrol duties on the All Terrain Vehicle (ATV) unit in an area known as Border Field State Park. This area is about five miles west of the San Ysidro, California Port of Entry, and adjacent to the United States/Mexico International Boundary.

At approximately 4:20 p.m., Agent Buenrostro observed an individual, later identified as the defendant **Jesus DELGADO-Gaspar**, walking north on the beach about 40 yards north of the International Boundary Fence. At about this same time, Border Patrol Agent W. Molchanow reported through his service radio that he also saw the defendant and requested assistance before approaching the defendant to interview him. The defendant continued to walk north on the beach. Agent Buenrostro responded and made verbal contact with the defendant, while Agent Molchanow provided back-up. Agent Buenrostro identified himself as a United States Border Patrol agent. Agent Buenrostro tried to question the defendant as to his immigration status, but the defendant answered with verbal obscenities. Officer Arnold Grassi (ID#N1165) from the United States Fish and Wildlife Service, responded to provide additional back-up. With the assistance of Officer Grassi, the defendant was placed in handcuffs and placed under arrest. The defendant continued with verbal obscenities and threats. The defendant was transported to the Imperial Beach Border Patrol station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **December 27, 2005** through **Laredo, Texas**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Warnings and was willing to make a statement without an attorney present. The defendant freely admitted to being a citizen and national of Mexico illegally present in the United States without the proper documentation. He further stated he did not apply for permission to re-enter the United States after being deported.